

AN ACT

relating to the imposition of the sales and use tax on certain taxable items.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 151.0565(a)(1) and (2), Tax Code, are amended to read as follows:

(1) "Destination management services" means the following services [~~when provided under a qualified destination management services contract~~]:

- (A) transportation vehicle management;
- (B) booking and managing entertainers;
- (C) coordination of tours or recreational activities;
- (D) meeting, conference, or event registration;
- (E) meeting, conference, transportation, or event staffing;
- (F) event management; [~~and~~]
- (G) meal coordination;
- (H) shuttle system services, including vehicle staging, radio communications, signage, and routing services; and
- (I) airport meet-and-greet services, including the provision of airport permits, manifest management services, portage, and passenger greeting services.

(2) "Qualified destination management company" means

1 a business entity that:

2 (A) is incorporated or is a limited liability
3 company;

4 (B) receives at least 80 percent of the entity's
5 annual total revenue from providing or arranging for the provision
6 of a combination of at least six destination management services;

7 (C) maintains a permanent nonresidential office
8 from which the destination management services are provided or
9 arranged;

10 (D) has at least three full-time employees;

11 (E) maintains a general liability insurance
12 policy with a limit of at least \$1 million [~~spends at least one~~
13 ~~percent of the entity's annual gross receipts to market the~~
14 ~~destinations with respect to which destination management services~~
15 ~~are provided~~];

16 (F) during the preceding tax year, had [~~has~~] at
17 least 80 percent of the entity's client contracts for:

18 (i) clients from [~~described by Subdivision~~
19 ~~(3)(A) located~~] outside this state who were determined by a
20 contracting entity outside this state; or

21 (ii) clients from outside this state who
22 were program attendees staying in a hotel in this state;

23 (G) other than office equipment used in the
24 conduct of the entity's business, does not own equipment used to
25 directly provide destination management services, including motor
26 coaches, limousines, sedans, dance floors, decorative props,
27 lighting, podiums, sound or video equipment, or equipment for

1 catered meals;

2 (H) does not prepare or serve beverages, meals,
3 or other food products, but may procure catering services on behalf
4 of the entity's clients [~~is not doing business as a caterer~~];

5 (I) does not provide services for weddings;

6 (J) does not own or operate a venue at which
7 events or activities for which destination management services are
8 provided occur; and

9 (K) [~~is not a subsidiary of another entity that,~~
10 ~~and~~] is not a member of an affiliated group, as that term is defined
11 by Section 171.0001, another member of which:

12 (i) prepares or serves beverages, meals, or
13 other food products [~~is doing business as, or owns or operates~~
14 ~~another entity doing business as, a caterer~~]; or

15 (ii) owns or operates a venue described by
16 Paragraph (J).

17 SECTION 2. Section 151.313, Tax Code, is amended by
18 amending Subsection (a) and adding Subsections (e) and (f) to read
19 as follows:

20 (a) The following items are exempted from the taxes imposed
21 by this chapter:

22 (1) a drug or medicine, other than insulin, if
23 prescribed or dispensed for a human or animal by a licensed
24 practitioner of the healing arts;

25 (2) insulin;

26 (3) a drug or medicine that is required to be labeled
27 with a "Drug Facts" panel in accordance with regulations of the

1 federal Food and Drug Administration, without regard to whether it
2 is prescribed or dispensed by a licensed practitioner of the
3 healing arts;

4 (4) a hypodermic syringe or needle;

5 (5) a brace; hearing aid or audio loop; orthopedic,
6 dental, or prosthetic device; ileostomy, colostomy, or ileal
7 bladder appliance; or supplies or replacement parts for the listed
8 items;

9 (6) a therapeutic appliance, device, and any related
10 supplies specifically designed for those products, if dispensed or
11 prescribed by a licensed practitioner of the healing arts, when
12 those items are purchased and used by an individual for whom the
13 items listed in this subdivision were dispensed or prescribed;

14 (7) corrective lens and necessary and related
15 supplies, if dispensed or prescribed by an ophthalmologist or
16 optometrist;

17 (8) specialized printing or signalling equipment used
18 by the deaf for the purpose of enabling the deaf to communicate
19 through the use of an ordinary telephone and all materials, paper,
20 and printing ribbons used in that equipment;

21 (9) a braille wristwatch, braille writer, braille
22 paper and braille electronic equipment that connects to computer
23 equipment, and the necessary adaptive devices and adaptive computer
24 software;

25 (10) each of the following items if purchased for use
26 by the blind to enable them to function more independently: a slate
27 and stylus, print enlarger, light probe, magnifier, white cane,

1 talking clock, large print terminal, talking terminal, or harness
2 for guide dog;

3 (11) hospital beds;

4 (12) blood glucose monitoring test strips;

5 (13) an adjustable eating utensil used to facilitate
6 independent eating if purchased for use by a person, including a
7 person who is elderly or physically disabled, has had a stroke, or
8 is a burn victim, who does not have full use or control of the
9 person's hands or arms;

10 (14) subject to Subsection (d), a dietary supplement;
11 and

12 (15) intravenous systems, supplies, and replacement
13 parts designed or intended to be used in the diagnosis or treatment
14 of humans.

15 (e) A product is an intravenous system for purposes of this
16 section if, regardless of whether the product is designed or
17 intended to be inserted subcutaneously into any part of the body,
18 the product is designed or intended to be used to administer fluids,
19 electrolytes, blood and blood products, or drugs to patients or to
20 withdraw blood or fluids from patients. The term includes access
21 ports, adapters, bags and bottles, cannulae, cassettes, catheters,
22 clamps, connectors, drip chambers, extension sets, filters,
23 in-line ports, luer locks, needles, poles, pumps and batteries,
24 spikes, tubing, valves, volumetric chambers, and items designed or
25 intended to connect qualifying products to one another or secure
26 qualifying products to a patient. The term does not include a wound
27 drain.

1 (f) A product is a hospital bed for purposes of this section
2 if it is a bed purchased, sold, leased, or rented, regardless of the
3 terms of the contract, that is specially designed for the comfort
4 and well-being of patients and the convenience of health care
5 workers, with special features that may include wheels, adjustable
6 height, adjustable side rails, and electronic buttons to operate
7 both the bed and other nearby devices. The term does not include
8 bed linens, stretchers, gurneys, delivery tables, or detached
9 accessories such as over-bed tables, trapeze devices, or scales.

10 The term includes:

11 (1) a mattress for the bed;

12 (2) any devices built into the bed or designed for use
13 with the bed;

14 (3) infant warmers;

15 (4) incubators;

16 (5) other beds for neonatal and pediatric patients;

17 and

18 (6) beds specifically designed and marketed for use in
19 the rest, recuperation, and treatment of obese patients, obstetric
20 patients, and burn patients.

21 SECTION 3. Section 151.319(f), Tax Code, is amended to read
22 as follows:

23 (f) In this section, "newspaper" means a publication that is
24 printed on newsprint, the average sales price of which for each copy
25 over a 30-day period does not exceed \$3 [~~\$1.50~~], and that is printed
26 and distributed at a daily, weekly, or other short interval for the
27 dissemination of news of a general character and of a general

1 interest. "Newspaper" does not include a magazine, handbill,
2 circular, flyer, sales catalog, or similar printed item unless the
3 printed item is printed for distribution as a part of a newspaper
4 and is actually distributed as a part of a newspaper. For the
5 purposes of this section, an advertisement is news of a general
6 character and of a general interest. Notwithstanding any other
7 provision of this subsection, "newspaper" includes:

8 (1) a publication containing articles and essays of
9 general interest by various writers and advertisements that is
10 produced for the operator of a licensed and certified carrier of
11 persons and distributed by the operator to its customers during
12 their travel on the carrier; and

13 (2) a publication for the dissemination of news of a
14 general character and of a general interest that is printed on
15 newsprint and distributed to the general public free of charge at a
16 daily, weekly, or other short interval.

17 SECTION 4. The change in law made by this Act does not
18 affect tax liability accruing before the effective date of this
19 Act. That liability continues in effect as if this Act had not been
20 enacted, and the former law is continued in effect for the
21 collection of taxes due and for civil and criminal enforcement of
22 the liability for those taxes.

23 SECTION 5. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 3169 was passed by the House on May 8, 2013, by the following vote: Yeas 147, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3169 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3169 on May 26, 2013, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3169

I certify that H.B. No. 3169 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3169 on May 26, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor